

Appendix C

Draft Real Estate Plan

DRAFT

REAL ESTATE PLAN

**BLANCHARD FLOOD
RISK MANAGEMENT
FEASIBILITY STUDY**

FINDLAY OHIO

**Prepared for
U.S. Army Corps of Engineers
Buffalo District**

**As of
April 2015**

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"ANY CONCLUSION OR CATEGORIZATION CONTAINED IN THIS REAL ESTATE PLAN, OR ELSEWHERE IN THIS PROJECT REPORT, THAT AN ITEM IS A UTILITY OR FACILITY RELOCATION TO BE PERFORMED BY THE NON-FEDERAL SPONSOR AS PART OF ITS LERRD RESPONSIBILITIES IS PRELIMINARY ONLY. THE GOVERNMENT WILL MAKE A FINAL DETERMINATION OF THE RELOCATIONS NECESSARY FOR THE CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE PROJECT AFTER FURTHER ANALYSIS AND COMPLETION AND APPROVAL OF FINAL ATTORNEY'S OPINIONS OF COMPENSABILITY FOR EACH OF THE IMPACTED UTILITIES AND FACILITIES."

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1.0 Purpose of the Real Estate Plan

The purpose of this Real Estate Plan is to identify the required Lands, Easements, Rights of Way, Relocations, Disposal/Borrow areas (LERRD) required to support the construction, operation and maintenance of the Tentatively Selected Plan (TSP) for the Blanchard River Watershed Feasibility Study, Findlay, Ohio. The study is to provide recommendations for reducing significant flood damages in the Blanchard River watershed. Project area maps, attached as Exhibits C-1 to C-5 show the location of the study area. Hancock County signed a Feasibility Study Cost Share Agreement on 30 Sep 2008 for a Western Lake Erie Basin Blanchard Watershed Interim Feasibility Study for Ecosystem Restoration and Flood Risk Management. Hancock County is the official non-Federal sponsor for the study. The LERRD identified within is tentative and subject to change throughout the remainder of the study period as well as during project design and implementation. The current TSP includes the following alternatives; West Diversion of Eagle Creek- Alternative 2 Alignment, and the Blanchard to Lye Cutoff. Currently there is no non-structural alternative as part of the TSP however non-structural measures will continue to be evaluated throughout the remainder of the study.

The Water Resources Development Act of 1999 (WRDA 99) provides authorization for this study under Section 441 – Western Lake Erie Basin, Ohio, Indiana and Michigan. It states:

“ (a) IN GENERAL.—The Secretary shall conduct a study to develop measures to improve flood control, navigation, water quality, recreation, and fish and wildlife habitat in a comprehensive manner in the western Lake Erie basin, Ohio, Indiana, and Michigan, including watersheds of the Maumee, Ottawa, and Portage Rivers.; (b) COOPERATION.—In carrying out the study, the Secretary shall— (1) cooperate with interested Federal, State, and local agencies and nongovernmental organizations; and (2) consider all relevant programs of the agencies”.

The USACE Buffalo District initiated a General Investigation Feasibility Study (GI/FS) and Interim Feasibility Report for the Blanchard River Watershed to satisfy the goals of WRDA 99.

This Draft Real Estate Plan (REP) is being submitted in accordance with Chapter 12 of ER 405-1-12 for approval. It is considered tentative in nature and for planning purposes only. The final real estate plan will be accomplished after optimization which will more accurately define property acquisition requirements and costs estimates.

2.0 Project Description

The proposed project will cover an aggregate area of approximately 508 acres which does not include possible induced flooding areas (Exhibit C-1). The properties within the project area consist of agricultural, commercial, public and residential properties. Because of the preliminary alignments of the project, the number and types of properties as well as specific property owners who may be impacted cannot be fully determined at this time and all acreages are approximate. Preliminary alignments are expected to be refined throughout the remainder of the study.

2.1 West Diversion of Eagle Creek- Alternative 2 Alignment

The proposed 9.4 mile Diversion Channel begins approximately 1300 feet downstream of County Road 45 and flows alternately west and north discharging into the Blanchard River approximately 1,600 feet west of Township Road 130 (Exhibits C-2 through C-4). The channel will be constructed in 8 reaches to be established between existing roadway/bridge locations. Permanent easements of approximately 366 acres will be needed for the proposed channel, Inline Diversion Structure and the pool area. Also included in the 366 acres are 25 foot permanent easements on both sides of the channel as well as a 50 foot easement on both sides of the control structure and the pool area. The need for any permanent access will be defined during optimization. Over 2.1 million cubic yards of excavated soil is tentatively expected to be disposed of at a quarry located in Findlay, Ohio however a cost analysis to determine that this is the least costly alternative is in progress.

Temporary easements for construction totaling approximately 50 acres will be utilized for the proposed channel and control structure areas. Temporary access easements will be needed for areas of the diversion channel that cannot be reached via direct access using public right-of-ways. Specific access routes will be defined during optimization.

To accommodate where the alignment crosses township road 67, county roads 9, 84, 86 and 313, and state road 12 as well as the Norfolk and Southern Railroad, 7 new bridges will be constructed. The proposed alignment will also affect the existing bridge at Interstate 75 requiring modification of the existing structure. All access and work will be accomplished within the easements obtained for construction of the levee and within the public right-of-way. Where the proposed diversion channel crosses township roads 89, 130, 10, 50, 76, 77, and 49, the roads will either cross the diversion channel using a dry crossing or will dead-end. Dry crossings will consist of the road ramping down the diversion slide slopes, to cross the channel. All dry crossings would be paved and the side slopes would be flattened to a 10 percent grade. During flood events, dry crossings will be physically closed to traffic by the use of gates lowered across the road on both sides of the channel. A determination of which roads will receive dry crossings and which will be dead-ended will be determined by the Sponsor. Access to agricultural properties split by the diversion channel will be accomplished through dry crossings with stone being placed along the slopes and bottom of the channel to allow for the crossing of farm equipment.

It is estimated that there will be six underground fiber optic cables, one crude oil pipeline and six gasoline pipelines that may be impacted and qualify as facility/ utility relocations. Also, at the sections where the alignment crosses county and state roads, it is anticipated that utility poles as well as the associated utilities may need to be relocated. An Attorney's Opinion of Compensability will be required.

It is anticipated that there will be impacts to 3 residential structures within the crest pool area possibly requiring the acquisition of the structures. Uniform Relocation Assistance will be required under P.L. 91-646.

The mitigation of approximately 46 acres of stream and 22.37 acres of wetlands will accompany this portion of the project.

2.2 Findlay Comprehensive Non-Structural Plan

To determine the application of non-structural measures, a risk management analysis was performed to establish a flood level threshold which provides the greatest benefits per unit cost. Non-structural

measures were analyzed at the 5, 10, and 25 year flood level. Preliminary analysis of the alternatives did not yield a positive benefit to cost for any of the proposed alternatives. Non-structural measures will continue to be evaluated throughout the remainder of the study.

2.3 Blanchard to Lye Cutoff

The Blanchard to Lye Cutoff is an approximately 9,300 foot long, ten foot wide levee (Exhibit C-5). The proposed levee will reduce flood damage along Lye Creek by preventing additional diverted flow from the Blanchard River from entering the creek. In order to meet the proposed line of protection and eliminate the need for a closure structure, County Road 205 will be raised six (6) feet. A 15 foot permanent easement will be required on both sides of the levee. Access to the levee and construction site will be obtained from County Road 205, Township Road 173 and State Road 15. An approximately 16 acre Permanent Levee Easement is expected for this alternative. Approximately 7 acres will be required for temporary work and storage areas for construction of the levee.

The mitigation of an estimated 1.68 acres of wetland will accompany this portion of the project.

3.0 Description of Lands, Easements, Rights-of-Way, Relocations and Disposal / Borrow Areas (LERRD)

Fee Simple

The fee simple title to (land described in Schedule A) 1/ (Tract Nos. _____, _____, and _____), subject, however, to existing easements for public roads and highways, public utilities, railroad and pipelines.

Flowage Easement (Occasional Flooding)

The perpetual right, power, privilege and easement occasionally to overflow, flood and submerge (the land described in Schedule A) (Tracts Nos. ____, ____, and ____) in connection with the operation and maintenance of the _____ project as authorized by the Act of Congress approved _____, together with the right, title and interest in and to the structure; and improvements now situate on the land, except fencing (and also excepting _____ (here identify those structures not designed for human habitation which the District Engineer determines may remain on the land)); provided that no structures for human habitation shall be constructed or maintained on the land, that no other structure shall be constructed or maintained on the land except as may be approved in writing by the representative of the United States in charge of the project, and that no excavation shall be conducted and no landfill placed on the land without such approval as to the location and method of excavation and/or placement of landfill; the above estate is taken subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving however to the landowners their heirs and assigns all such rights and privileges as may be used and enjoyed without interfering with the use of the project for the purposes authorized by Congress or abridging the rights and easement hereby acquired; provided further that any use of the land shall be subject to Federal and State laws with respect to pollution.

Flood Protection Levee Easement

A perpetual and assignable right and easement in (the land described in Schedule A) (Tracts Nos. ____, ____, and ____) to construct, maintain, repair, operate, patrol and replace a flood protection levee, including all appurtenances thereto; reserving, however to the owners, their heirs and assigns, all such rights and privileges in the land as may be used without interfering with or abridging the rights and easement hereby acquired; subject however to existing easements for public roads and highways, public utilities, railroads and pipelines.

Channel Improvement Easement

A perpetual and assignable right and easement to construct, operate, and maintain channel improvement works on, over and across (the land described in Schedule A) (Tracts Nos. _____, ____, and ____), for the purposes as authorized by the Act of Congress approved _____, including the right to clear, cut, fell, remove and dispose of any and all timber, trees, underbrush, buildings, improvements and/or obstructions therefrom; to excavate, dredge, cut away, and remove any or all of said land and to place thereon dredge or spoil material; and for such other purposes as may be required in connection with said work of improvement; reserving, however, to the owners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroad and pipelines.

Temporary Work Area Easement

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. ____, ____, and ____), for a period not to exceed _____, beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the _____Project, together with the right to trim, cut fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads, highways, public utilities, railroads and pipelines.

Utility and/or Pipeline Easement

A perpetual and assignable easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, ____, and ____), for the location, construction, operation, maintenance, alteration; repair and patrol of (overhead) (underground) (specifically name type of utility or pipeline); together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their assigns, all such rights and privileges as may be used

without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

West Diversion Alt 2	
Estate	Acres
Channel Improvement Easement	253
Temporary Work Area Easement	50.4
Flowage Easement	113
Fee	68
Blanchard To Lye Cutoff	
Flood Protection Levee Easement	15.75
Temporary Work Area Easement	7
Flowage Easement	1579
Fee	1.68

4.0 LERRD Owned by Non-Federal Sponsor

LERRD owned by the potential non-Federal sponsors, Hancock County and the Maumee Conservancy District has not been identified at this time.

5.0 Non-Standard Estates

A non-standard estate is not proposed for any portion of the project.

6.0 Any Existing Federal Project That Lies Fully or Partially Within the LERRD Required for the Project.

There have not been any identified federal projects located within the proposed project's limits.

Coordination has occurred with local floodplain administrators in regards to FEMA Hazard Mitigation Grant Programs (HMGP). While FEMA has provided grant money to these local communities to acquire HMGP eligible properties in the project vicinity, none have been identified to be in the current project footprint. There are currently no identified plans to acquire any lands within the project area with HMGP funds. Future project studies will include close coordination with FEMA and the local communities to ensure no program conflicts exist.

7.0 Any Federally Owned Land

No federally-owned lands have been identified within the project footprint.

8.0 LERRD That Lies Below the Ordinary High Water Mark

Neither Blanchard River nor Eagle Creek are navigable waterways therefore navigational servitude does not apply.

9.0 Maps Depicting Project Area

Tentative alignments are provided as Exhibits C1-C5.

10.0 Induced Flooding

The current H&H modeling shows approximately 1,579 acres may be impacted by induced flooding at the 100 year event the Blanchard to Lye Creek Levee alternative. Once the final alignment is designed, H&H will provide inundation maps to real estate for the 5, 10, 25 and 100 year event. A Takings Analysis will then be completed by an attorney to determine the extent in which the increased flooding rises to the level of a taking. The preliminary model has showed depth increases from less than 1 inch to approximately 4 feet in some areas lasting for less than 24 hours.

11.0 Real Estate Cost Estimate

A SMART planning brief gross appraisal will be accomplished once optimization is completed prior to the final feasibility report. The below cost estimates are derived from Informal Value Conclusions (IVC) reviewed by a licensed appraiser from the Detroit District. They reflect market values obtained from the Hancock County Tax Assessor website. A random validation of these values shows these costs to be acceptable for purposes of reaching a Tentatively Selected Plan. The expected difference in the LERRD cost estimates between the IVC estimates and the values we expect to obtain from a brief gross appraisal will not impact the overall Tentatively Selected Plan conclusion.

Table 1: Real Estate Baseline Cost Estimate

Project Area		Costs
West Diversion Alt 2		
	Estate	
	Channel Improvement Easement	\$558,043.00
	Temporary Work Area Easement	\$13,532.00

	Flowage Easement	\$511,483.00
	Fee	\$195,516.00
	Utility Relocations	\$2,365,700.00
	Planning, Engineering & Design	\$283,884.00
	Construction Management	\$189,256.00
	Bridge Construction	\$8,524,500.00
	Planning, Engineering & Design	\$1,022,940.00
	Construction Management	\$681,960.00
	Mob. Demob. Prep Work	\$213,113.00
	Relocation Assistance	\$61,180.00
	Residential Structure Value	\$841,870.00
	Administration	\$654,320.00
	Contingency (25%)	\$4,029,324.00
	Total	\$20,146,621.00
Blanchard to Lye Cutoff		
	Flood Protection Levee Easement	\$32,760.00
	Temporary Work Area Easement	\$1,820.00
	Flowage Easement	\$3,514,107.00
	Fee	\$4,138.00
	Road Modification	\$190,416.00
	Planning, Engineering & Design	\$22,850.00
	Construction Management	\$15,233.00
	Administration	\$209,642.00
	Contingency (25%)	\$997,741.00
	Total	\$4,988,707.00
Total LERRD Estimate		\$25,135,328.00

Note 1 – The majority of LERRD required is on agricultural lands. The value estimate is based on per acre value only and does not include a value associated with any possible business impacts or leasehold interests, etc.

Note 2– The structure buy out value is tentative and will be validated once an appraisal is performed.

Note 3 – Uneconomic remnants have not been considered in estimating these costs. These will be identified once an appraisal is performed however a 25% contingency has been built into real estate costs to accommodate for the possibility of remnants.

Note 4 – The utility relocation, road modification and bridge construction estimates were received from Cost Engineering. This estimate includes 12% for planning , engineering and design and 8% construction management.

12.0 Relocation Assistance Benefits

Based on the current proposed alignment there are 3 residences within the crest pool of the West Diversion of Eagle Creek – Alternative 2 Alignment that may need to be relocated under the provisions of the Uniform Relocations Assistance and Real Property Acquisitions Policies Act (P.L. 91-646), as amended, and the uniform regulations contained in 49 CFR, Part 24 including the provision of payment of relocation assistance benefits to eligible recipients.

Public Law 91-646, Title II, authorizes payment of relocation benefits to persons displaced from their homes, businesses or farms by federal and federally assisted programs. Those benefits are separate from and in addition to the acquisition payments for real property. Estimated benefits for residential displacements include moving expenses and replacement housing. Owner-occupants and tenant-occupants of mobile homes will be accorded the same benefits as occupants of conventional dwellings with respect to P.L. 91-646. Relocation benefits for non-residential displacements are limited to moving and related expenses, including search expenses, and, if applicable, re-establishment expenses.

The real estate cost estimate includes the estimated cost of these excess payments under the P.L. 91-646 payments section of the estimate.

13.0 Mineral Activity

There is no present or anticipated mineral activity within the proposed projects limits. There are 46 oil and gas wells listed in the vicinity of the diversion channel however, the accuracy of the data cannot be verified due to limited access. It is anticipated that the alignment of the diversion channel could be modified in order to reduce the number of wells impacted. While most wells are expected to be closed and the casings pulled, there is a small chance that some wells will be open and need to be permanently capped or removed prior to construction.

14.0 Assessment of Non-Federal Sponsor

Hancock County is the non-Federal Sponsor for the feasibility study and an update LOI has been obtained. The Maumee Conservancy District will be the Sponsor for implementation.

15.0 Zoning

The subject properties for the proposed project are zoned as farmland, commercial, and single-family residential. Any required zoning changes have not been identified at this time.

16.0 Project Schedule

Real estate acquisition is expected to take thirty six to forty eight months. It is expected that condemnations and relocations will be required. A detailed project schedule can be found in the main report.

17.0 Facility or Utility Relocations

The total facility relocation costs for this project are not anticipated to exceed 30% of total project costs. The District has completed a real estate assessment and concluded that the facility owners are generally the type eligible for substitute facilities and has completed some research leading them to believe the owners have compensable property interests. Final Attorney Opinions of Compensability will be completed prior to any notice to proceed to the NFS or initiation of the federal real estate work on the railroad bridge relocation agreement.

The West Diversion of Eagle Creek will require the construction of a new railroad bridge where the diversion channel crosses the existing railroad tracks. A relocation agreement with the railroad for the required real estate rights for the construction of the new bridge in exchange for functionally equivalent facility will be required. In accordance with Policy Guidance Letter No. 45, costs for the construction of the new railroad bridge are a cost shared responsibility and will be assigned as a construction cost rather than as a part of the LERRD costs.

Six new bridges have been identified to be constructed to accommodate the West Diversion of Eagle Creek Alternative 2 Alignment to include areas where the proposed alignment crosses Township Roads 67, as well as County Road 9, 313, 84, 86 and State Road 12 and will also affect the existing bridge at Interstate 75. For the Blanchard to Lye Cutoff, County Road 205 will be raised six (6) feet in order to meet the proposed line of protection. In accordance with ER 1105-2-100, "Alterations to highway bridges necessitated by a flood control project are considered LERRD and are a non-Federal responsibility."

The construction of the West Diversion Channel may require the relocation of six (6) fiber optic cables and six (6) oil and gas pipelines as well as the relocation of utility poles in areas where the alignment crosses roads.

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18.0 Known Environmental Concerns

Phase I HTRW Environmental Site Assessments (ESAs) were conducted in 2010 and 2013 while a preliminary screening for hazardous materials was conducted in 2012. For more information concerning

hazardous substances/petroleum products please see the Environmental Appendix.

Phase I archaeological and architectural investigations were conducted in 2010 and 2011 in portions of the project area. Additional cultural resources work is anticipated to evaluate the NRHP eligibility of some of the archaeological sites and structures identified by these investigations. There also may be additional areas requiring investigation. A summary of the investigations completed to date will be included in the Environmental Appendix.

In compliance with the National Historic Preservation Act (NHPA) consultation has been initiated. Through on-going coordination with the Ohio SHPO regarding historic properties it has been determined the proposed project has the potential to effect historic properties. Since coordination on the completed investigations is still underway and there may be additional areas requiring investigation it has also been determined that further consultation with the Ohio SHPO and other interested parties would need to be undertaken to determine appropriate measures for inclusion in a Programmatic Agreement to address phased investigations and identified project effects to historic properties. Development of a Programmatic Agreement would be completed prior to implementation of the selected alternative.

Delineation data was not available therefore; a desktop review of current resources was completed to show a more accurate comparison of resources that may be impacted. A hybrid of both the National Wetlands Inventory (NWI) and the Ohio Wetlands Inventory (OWI) was created. The implementation of the West Diversion of Eagle Creek Alternative 2 Alignment would likely result in moderate, long-term impacts to approximately 33 acres of wetlands with another four acres potentially incurring indirect long-term impacts. Efforts to minimize direct and indirect impacts through the implementation of this measure would include but not be limited to avoidance of wetlands to the extent practicable. The Blanchard to Lye Cutoff is expected to result in moderate, long-term impacts of approximately 20 acres with the potential of another 2.5 acres affected as a result of indirect impacts.

The Corps is proposing to enhance approximately 9,094 linear feet of highly modified stream channels by adding floodplain benches and forested/scrub/shrub/emergent riparian buffer along approximately 1,446.41 linear feet of Aurand Run and 7,647.74 linear feet of Lye Creek. This will serve to offset the proposed impacts from the TSP and result in no net loss of stream habitat within the Blanchard watershed. Also proposed is the restoration of 23.2 acres of forested/scrub-shrub wetlands (2:1 mitigation ratio) adjacent to the Blanchard River as compensatory mitigation to offset unavoidable impacts to freshwater wetlands and to ensure there are no net loss of the functions and values to these special aquatic sites. "Guidelines for Wetland Mitigation Banking in Ohio" will be used to develop habitat restoration planting plans, success criteria, and monitoring protocols.

19.0 Support or opposition to the project

While it is understood that the flooding issues affecting the Blanchard River need to be addressed, there is some public opposition concerning the proposed selected alternatives.

20.0 Risk Letter

A risk letter was provided to the Northwest Ohio Flood Mitigation Partnership in 2009. It is anticipated that the Maumee Conservancy District may be the sponsor for the next phase of the project and will be provided a risk letter at that time.

The non-Federal sponsor will be given detailed information regarding the requirements for LERRD's necessary for completion of the project and fully anticipates meeting the current District schedule.

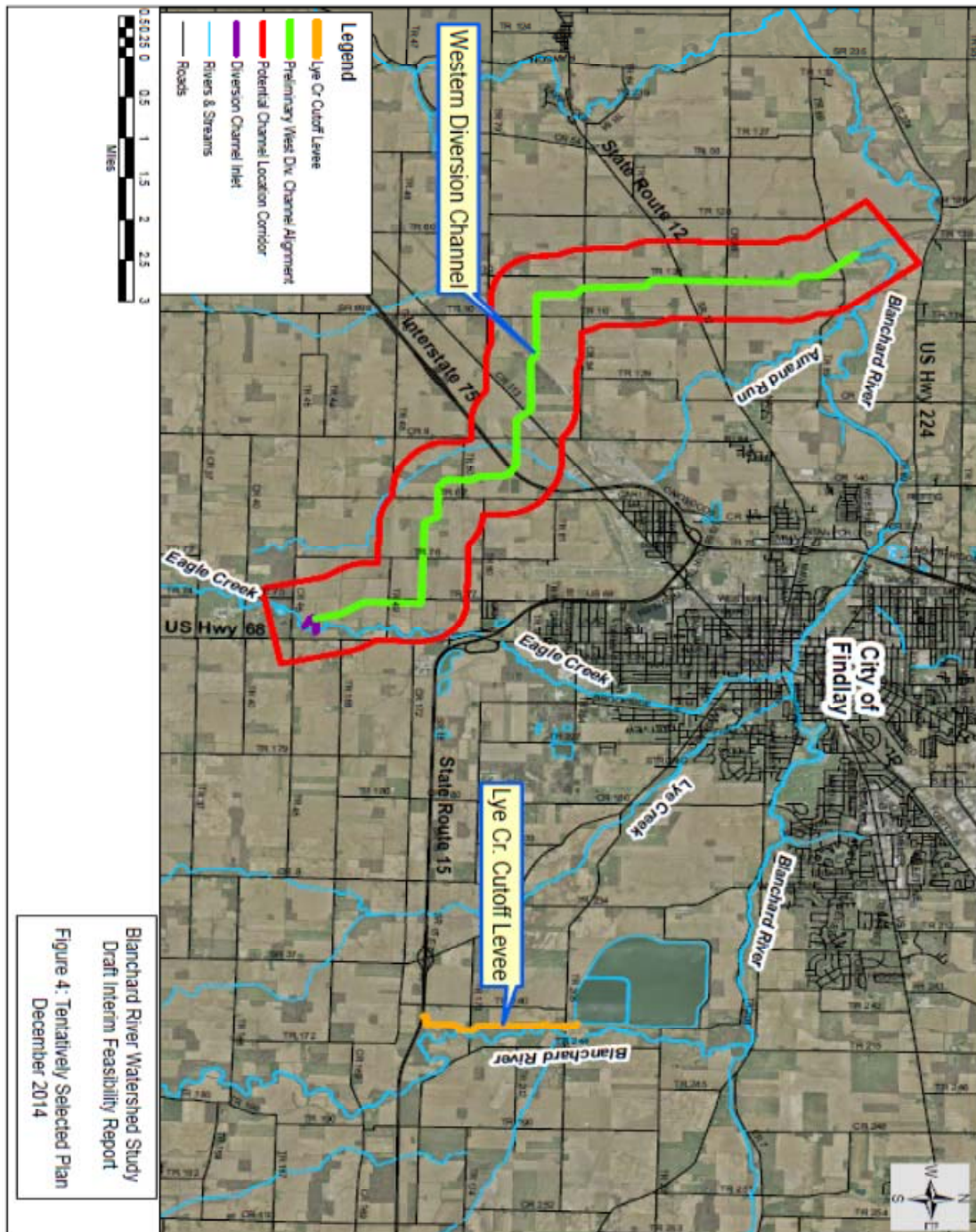
21.0 Other Real Estate Issues

The risk register identifies potential cost growth as it relates to LERRDs based on the preliminary nature of this real estate plan. As optimization occurs and more specific real estate requirements are known the risk register will be updated.

The Detroit District Real Estate Division will coordinate, monitor and assist with all real estate activities undertaken by the non-Federal sponsor. The Real Estate Division will assure that the acquisition process is conducted in compliance with Federal and State Laws, specifically, the requirements under the Federal Uniform Relocation and Acquisition Act (P.L. 91-646). The Real Estate Division will also attend district team meetings, review and provide input into draft and final reports prepared by the district team, and participate in the ATR.

EXHIBITS

Exhibit C-1 Tentatively Selected Plan



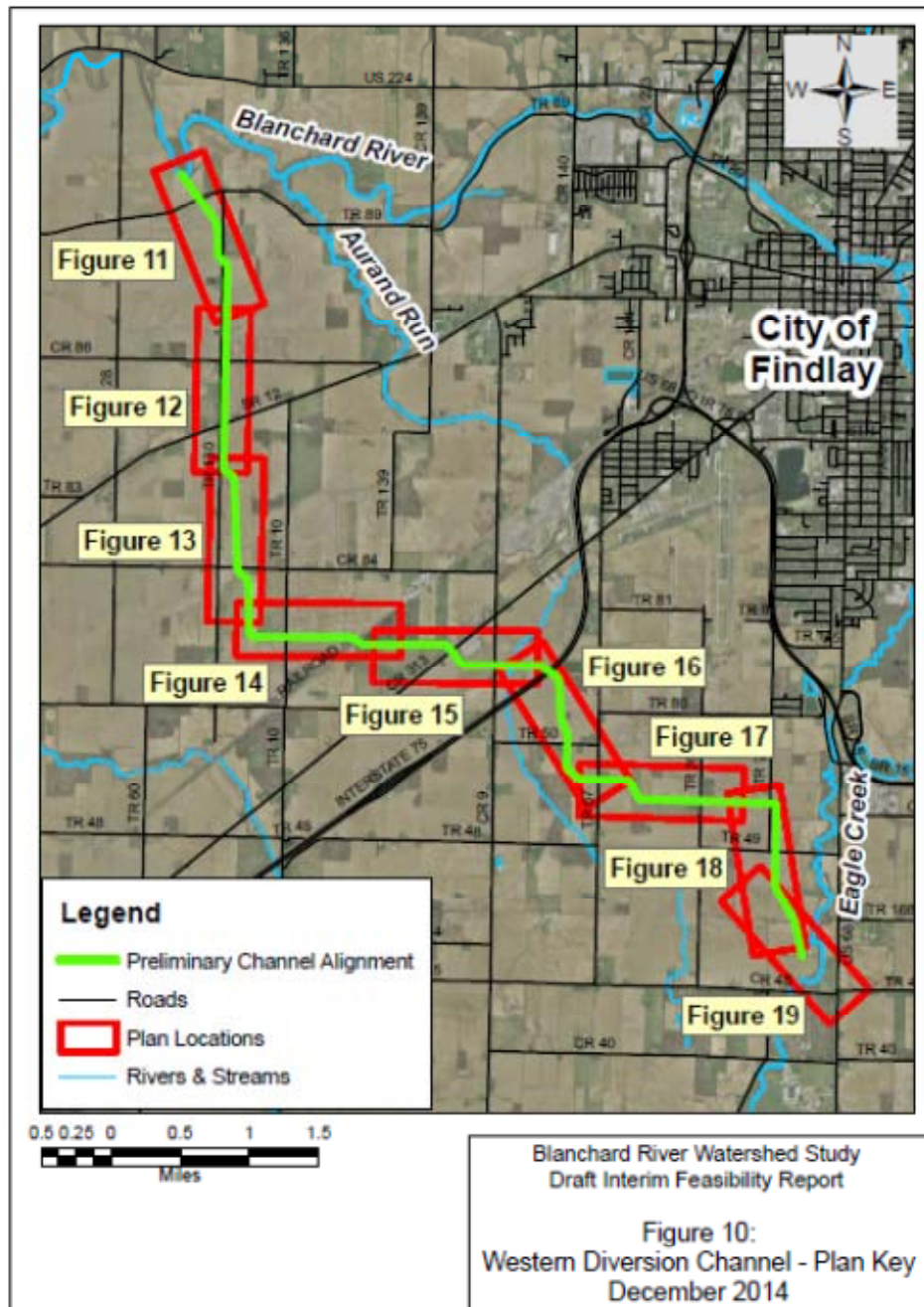


Exhibit C-3 Western Diversion Channel Inlet at Eagle Creek

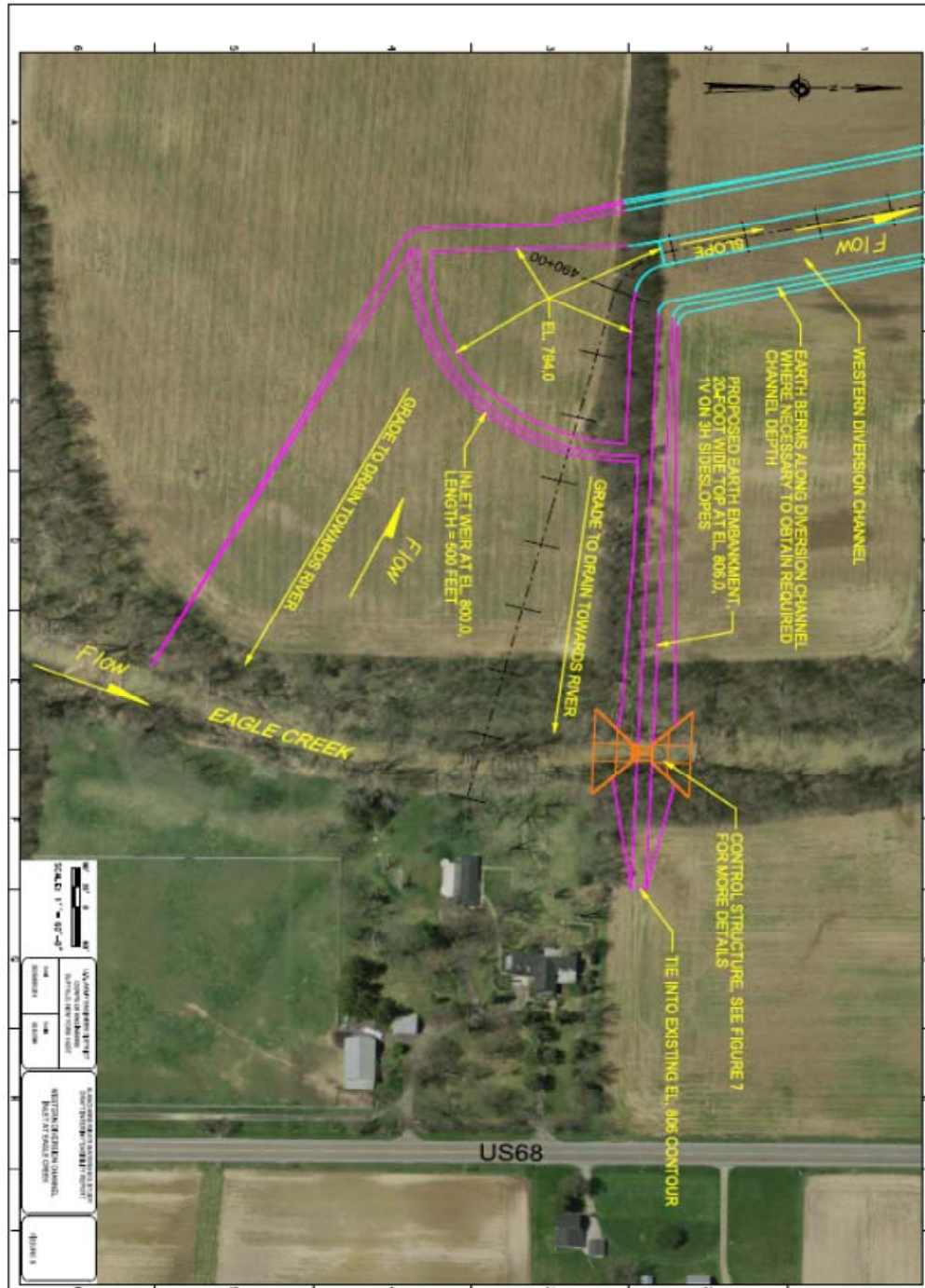


Exhibit C-4 Western Diversion Inlet with Crest Pool

